IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

FRIDAY, THE 19TH OCTOBER 2007 / 27TH ASWINA 1929

WP(C).No. 6720 of 2007(Y)

PETITIONER:

K.R. JAYARAJAN, UPSA,
N.N.M.U.P.SCHOOL, CHETHALLUR P.O.,
MANNARKKAD, PALAKKAD DISTRICT-678 609.

BY ADV. SRI. KALEESWARAM RAJ

RESPONDENTS:

1. **STATE OF KERALA, REPRESENTED BY THE SECRETARY TO GOVERNMENT, DEPARTMENT OF GENERAL EDUCATION, SECRETARIAT, THIRUVANANTHAPURAM.**
2. **DIRECTOR OF PUBLIC INSTRUCTION, THIRUVANANTHAPURAM.**
3. **DEPUTY DIRECTOR OF EDUCATION, PALAKKAD.**
4. **DISTRICT EDUCATIONAL OFFICER, PALAKKAD.**
5. **ASSISTANT EDUCATIONAL OFFICER, MANNARKKAD, PALAKKAD DISTRICT.**
6. **THE MANAGER, N.N.M.U.P.SCHOOL, CHETHALLUR P.O., MANNARKAD, PALAKKAD DISTRICT-678 609.**
7. **P. UNNIKRISHNAN, U.P.S.A., N.N.M.U.P.SCHOOL, CHETHALLUR P.O., MANNARKKAD, PALAKKAD-678 609.**

BY ADV. SRI.V.A.MUHAMMED
SRI.K.E.HAMZA
GOVERNMENT PLEADER SMT. M.R. SREELATHA

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 19/10/2007 ALONG WITH WPC NO. 7099 OF 2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 6720/2007(Y)

A P P E N D I X

PETITIONER'S EXHIBITS:

EXT. P1	**:**	**COPY OF THE REPRESENTATION DATED 8.6.2006 FILED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.**
EXT. P2	**:**	**COPY OF THE JUDGMENT DATED 3.7.2006 IN W.P.(C) NO. 17203/2006.**
EXT. P3	**:**	**COPY OF G.O. (Rt) NO. 5266/2006 DATED 4.12.2006.**
EXT. P4	**:**	**COPY OF THE REPRESENTATION DATED 8.1.2007 FILED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.**

7TH RESPONDENT'S EXHIBITS:

EXT. R7(a)	**:**	**COPY OF THE ORDER OF APPOINTMENT OF SRI. P. UNNIKRISHNAN.**

// True Copy //

P.A. to Judge.

dvs

S.SIRI JAGAN,J

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W.P.(C).Nos.6720 & 7099 of 2007

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Dated this the 19th day of October, 2007

JUDGMENT

The writ petitioners in these writ petitions are aggrieved by the preference given to the B.Ed. holders is the matter of appointment as Headmasters as per Rule 45 Chapter XIV of Kerala Education Rules. They approached this Court at a time when B.Ed holders were appointed in their respective schools in preference to the petitioners. The petitioners cannot now dispute that in view of the Rule as it is stands today they cannot challenge the promotion already given to the present incumbents. All what they seek now is that the Government may be directed to consider the proposal for withdrawing the preference now being enjoyed by the B.Ed holders as mentioned in the impugned orders in these writ petitions. They points out that in the counter affidavit filed by the Government also, such a proposal is mentioned. The withdrawal of the preference in Rule 45 of Chapter XIV of KER requires amendment of the rule itself which involves legislation. This Court cannot direct the

Government to initiate legislation. In the above circumstances, recording the statement that there is a proposal before the Government for withdrawal of the preference given to B.Ed holders in the matter of promotion as Headmasters, this writ petition is closed. However, this shall not be taken as a consideration by this Court on merits as to the necessity or validity of withdrawal of such preference.

S.SIRI JAGAN, JUDGE

dvs